

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	File Number EB-03-SJ-019
)	
Clamor Broadcasting Network Inc.)	NAL/Acct. No.200332680004
Owner of Antenna Structure located atop the)	
Atlantico Condominium on Naranjal Street, in)	FRN 0008403388
Levittown, Puerto Rico)	
Bayamon, Puerto Rico)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: April 14, 2003

By the Enforcement Bureau, San Juan Office:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture (“NAL”), we find Clamor Broadcasting Network Inc., owner of an unregistered antenna structure located atop the Atlantico Condominium on Naranjal Street, Levittown, Puerto Rico, apparently liable for a forfeiture in the amount of three thousand dollars (\$3,000) for willful and repeated violation of Section 17.4(a) of the Commission's Rules (“Rules”).¹ Specifically, we find Clamor Broadcasting Network Inc. apparently liable for failure to register its antenna structure with the Commission.

II. BACKGROUND

2. On March 7, 2003, agents from the Commission’s San Juan office inspected the antenna structure located at coordinates 18-26-47.80 N / 066-10-24.60 W, atop the Atlantico Condominium in Levittown, Puerto Rico. The structure consisted of a 120 foot tower on top of a building resulting in a total height above ground of over 220 feet. The structure had a small hand written sign that read “FCC Temporary Tower Registration 1011531.” The Commission’s Antenna Structure Registration database contained no record of this registration number or any record of registration for this structure. The agents interviewed Mr. Rafael Cerra, engineer for radio station WKVN-FM. Clamor owns WKVN-FM and is the sole user of the antenna structure. Mr. Cerra stated that Clamor owns the antenna structure and that Clamor filed an application to register the structure on December 30, 1996, but the FCC returned the application on March 19, 1997 due to several deficiencies. One of the deficiencies in the application concerned Clamor’s failure to obtain the required Federal Aviation Administration (“FAA”) clearance for the proposed structure prior to registration. In 1999, Clamor obtained an aeronautical study for the structure from the FAA that recommended the structure be painted and lighted. There was no evidence that Clamor had reapplied for registration after December 30, 1996.

III. DISCUSSION

¹ 47 C.F.R. § 17.4(a).

3. Section 17.4(a) requires that the owner of any proposed or existing antenna structure that requires notice of proposed construction to the FAA must register the structure with the Commission. Clamor's antenna structure required notification to the FAA, and, therefore, registration with the Commission, because the structure exceeded 200 feet in height above ground level.² From at least December 30, 1996, until March 7, 2003, Clamor failed to register its antenna structure with the Commission.

4. Based on the evidence before us, we find Clamor Broadcasting Network Inc. willfully³ and repeatedly⁴ violated Section 17.4(a) of the Rules by failing to register its antenna structure with the Commission.

5. Pursuant to Section 1.80(b)(4) of the Rules,⁵ the base forfeiture amount for failure to file required forms or information (failure to register an antenna structure with the Commission) is three thousand dollars (\$3,000). In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Communications Act of 1934, as amended ("Act"), which include the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.⁶ Considering the entire record and applying the factors listed above, this case warrants a \$3,000 forfeiture.

IV. ORDERING CLAUSES

6. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act,⁷ and Sections 0.111, 0.311 and 1.80 of the Rules,⁸ Clamor Broadcasting Network Inc. is hereby NOTIFIED of this APPARENT LIABILITY FOR A FORFEITURE in the amount of three thousand dollars (\$3,000) for willful and repeated violation of Section 17.4(a) of the Rules by failing to register its antenna structure with the Commission.

7. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this NAL, Clamor Broadcasting Network Inc. SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed

² See 47 C.F.R. § 17.7(a).

³ Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act" See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387-88 (1991).

⁴ The term "repeated," when used with reference to the commission or omission of any act, "means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day." 47 U.S.C. § 312(f)(2).

⁵ 47 C.F.R. § 1.80(b)(4).

⁶ 47 U.S.C. § 503(b)(2)(D).

⁷ 47 U.S.C. § 503(b).

⁸ 47 C.F.R. §§ 0.111, 0.311, 1.80.

forfeiture.

8. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. and FRN referenced above. Requests for payment of the full amount of this NAL under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.⁹

9. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12th Street SW, Washington DC 20554, Attn: Enforcement Bureau-Technical & Public Safety Division and MUST INCLUDE THE NAL/Acct. No. referenced above.

10. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

11. Under the Small Business Paperwork Relief Act of 2002, Pub L. No. 107-198, 116 Stat. 729 (June 28, 2002), the FCC is engaged in a two-year tracking process regarding the size of entities involved in forfeitures. If you qualify as a small entity and if you wish to be treated as a small entity for tracking purposes, please so certify to us within thirty (30) days of this NAL, either in your response to the NAL or in a separate filing to be sent to the Technical & Public Safety Division. Your certification should indicate whether you, including your parent entity and its subsidiaries, meet one of the definitions set forth in the list provided by the FCC’s Office of Communications Business Opportunities (OCBO) set forth in Attachment A of this Notice of Apparent Liability. This information will be used for tracking purposes only. Your response or failure to respond to this question will have no effect on your rights and responsibilities pursuant to Section 503(b) of the Communications Act. If you have questions regarding any of the information contained in Attachment A, please contact OCBO at (202) 418-0990.

12. IT IS FURTHER ORDERED THAT a copy of this NAL shall be sent by regular mail and Certified Mail Return Receipt Requested to Clamor Broadcasting Network Inc., P.O. Box 40000, Bayamon, PR 00958-9000.

FEDERAL COMMUNICATIONS COMMISSION

⁹ See 47 C.F.R. § 1.1914.

William Berry
San Juan Office, Enforcement Bureau